

BP - issue

Oil & Gas
(LNG)
Energy

Js Wilson/R6/USEPA/US
01/05/2007 07:17 AM

To Willie Lane/R6/USEPA/US@EPA, Claudia
Hosch/R6/USEPA/US@EPA
cc
bcc
Subject Fw: Response to BP's Letter

Scott Wilson
Environmental Scientist
EPA Region 6 (6WQ-P)
1445 Ross Ave.
Dallas, TX 75202
Phone: 214-665-7511
Fax: 214-665-2191

----- Forwarded by Js Wilson/R6/USEPA/US on 01/05/2007 07:14 AM -----

Scott
McDonald/R6/USEPA/US
12/27/2006 03:31 PM

To Patrick Rankin/R6/USEPA/US@EPA
cc Js Wilson/R6/USEPA/US@EPA, Renea
Ryland/R6/USEPA/US@EPA, Robert
Houston/R6/USEPA/US@EPA
Subject Re: Fw: Response to BP's Letter

FYI: I signed the routing folder earlier today (12/27) for both ORC legal enforcement (myself) and legal counseling (Renea). The letter (as revised by Rankin below) and routing folder is now with Blevins.
Scott

Patrick Rankin/R6/USEPA/US

Patrick
Rankin/R6/USEPA/US
12/22/2006 09:49 AM

To Renea Ryland/R6/USEPA/US@EPA
cc Js Wilson/R6/USEPA/US@EPA, Robert
Houston/R6/USEPA/US@EPA, Scott
McDonald/R6/USEPA/US@EPA
Subject Re: Fw: Response to BP's Letter

Having time on my hands today, I thought I'd produce a "clean" copy of my suggested revisions from yesterday and make some other parts of the letter a little more readable. Please note:

1. The statement on no need to decide whether this is an anticipated or unanticipated bypass seems a little strange, but may be justified by the "hit or miss" nature of the problem. I've left it in.
2. Under 40 CFR 122.41(m)(4)(C)(ii), only the "Director" may approve an anticipated bypass. "Director" means the Regional Administrator or his authorized representative (i.e., delegate). See 40 C.F.R. 122.2. Determining whether or not a bypass is allowable is most arguably within the scope of Delegation R6-2-22 (findings of violation) and should thus probably not be delegated below Division Director level. The attached draft thus has John as signatory.

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – 7099 3220 0001 4432 8103

Mr. David Sims
Wells Program Manager
BP Exploration & Production Inc.
501 Westlake Park Blvd.
Houston, TX 77079

Re: Request for Concurrence with BP's Interpretation of NPDES General Permit Bypass
Provision or Alternatively for Approval of Anticipated Bypass

Dear Mr. Sims:

This responds to your December 20, 2006 letter requesting EPA concurrence on your interpretation of Section II.B.4.c of EPA's National Pollutant Discharge Elimination System (NPDES) General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico ("the Permit"). That permit authorizes BP Exploration and Production, Inc. ("BP") to discharge specified pollutants from its the Green Canyon 902 #1 Big Kahuna exploration well.

You state that the Big Kahuna exploration well must be drilled through the topmost or unconsolidated sand and sediment layer without a riser to prevent structural failure in the surrounding sediments. The unconsolidated layer situated above the Big Kahuna oil formation may contain layers of shallow formation oil and current imaging technology is not capable of identifying a drilling location without that shallow formation oil. If shallow formation oil is encountered by BP during riserless drilling, drill cuttings and adhering shallow formation oil may be released to the Gulf of Mexico.

Part II.B.4.c. of the Permit authorizes "bypass," i.e., "the intentional diversion of waste streams from any portion of a facility's treatment facilities," if the bypass was unavoidable to prevent loss of life, personal injury, severe property damage, or permanent loss of natural resources, there were no feasible alternatives to the bypass, and the permittee submits notice as required by Part II.B.4.b. of the Permit. Part II.B.4(c)(2) of the Permit allows EPA to authorize an anticipated bypass after considering its adverse effects, provided the bypass will meet those three conditions.

Based on the circumstances detailed in your December 20th letter, EPA Region 6 agrees that BP's reliance on the bypass provision of NPDES GMG290000 is warranted. Specifically, Region 6 agrees that:

- Riserless drilling through the unconsolidated layer on the Big Kahuna exploration well is necessary to prevent structural failure in the surrounding sediment, which would result in "severe property damage" and/or permanent loss of natural resources.
- No viable alternatives to riserless drilling are available to BP at this time.
- Minor releases of drill cuttings and shallow formation oil would have little adverse effect on this area of the Gulf of Mexico, which is characterized by natural oil seeps from the same shallow formations.

BP's December 20, 2006, letter constitutes notice of an anticipated bypass as required by Part II.B.4.b(1) of the Permit and BP has agreed to submit notice of an unanticipated bypass within 24 hours of the occurrence of any release in accordance with Part II.B.4.b(2). Because BP's situation appears to meet the requirements for both anticipated and unanticipated bypasses under Part II.B.4.c. of the Permit, EPA does not now need to determine which of these bypass provisions best fits BP's circumstances.

We appreciate BP's efforts to approach this unusual situation proactively. If you have any questions, please contact Robert Houston, of my staff, at (214) 665-8565.

Sincerely,

John Blevins, Director
Compliance Assurance and
Enforcement Division

cc: Ms. Donna Ward, BP
Mr. Carlos Moreno, BP
Mr. Scott McDonald, EPA
Mr. Scott Wilson, EPA
Mr. Robert Houston, EPA

bcc: Haggard (6EN-WC)

CONCURRENCE

6EN-WM	6EN-WM	6RC-M	6RC-E	6EN-W
HOUSTON	FAULTRY	RYLAND	MCDONALD	MICHAUD

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Interpretation of NPDES General Permit

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Wells Program Manager
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501 Westlake Park Blvd.
Houston, TX 77079

Re: Request for Concurrence with BP's Interpretation of NPDES General Permit Bypass
Provision or Alternatively for Approval of Anticipated Bypass

Dear Mr. Sims:

This letter is in response to your letter to Mr. John Blevins, dated December 20, 2006, requesting EPA concurrence on your interpretation of Section II.B.4.c of EPA's National Pollutant Discharge Elimination System (NPDES) General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico ("the Permit"). BP Exploration and Production, Inc. ("BP") has coverage under NPDES GMG290000 for its oil and gas development activities in the Green Canyon 902 #1 Big Kahuna exploration well in the Gulf of Mexico.

In your letter, you stated that due to special conditions present for the Big Kahuna exploration well, drilling activities for Big Kahuna must be riserless through the topmost or unconsolidated sand and sediment layer to prevent structural failure in the surrounding sediments. The unconsolidated layer situated above the Big Kahuna oil formation may contain layers of shallow formation oil and current imaging technology is not capable of identifying a drilling location that will definitely not encounter this oil. If shallow formation oil is encountered by BP during riserless drilling, drill cuttings and adhering shallow formation oil, the discharge of which is prohibited by NPDES GMG290000, may be released to the Gulf of Mexico.

You also indicate that BP would like to invoke Part II.B.4.c. of the Permit, which allows for "bypass" or "the intentional diversion of waste streams from any portion of a facility's treatment facilities" if certain delineated conditions are met, i.e., the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, there were no feasible alternatives to the bypass, and the permittee submitted notice as required by Part II.B.4.b. of the Permit. Part II.B.4(c)(2) of the Permit allows EPA to allow an anticipated bypass after considering its adverse effects, provided the bypass will meet the three conditions listed at Part II.B.4.c(1).

Based on the circumstances detailed in your December 20th letter, EPA Region 6 agrees that BP's reliance on the bypass provision of NPDES GMG290000 is warranted. Region 6 agrees that riserless drilling through the unconsolidated layer on the Big Kahuna exploration well appears necessary in order to prevent structural failure in the surrounding sediment, which would result in "severe property damage" as defined by Part II.G.67 of the Permit. The Region also agrees that there do not appear to be any viable alternatives to riserless drilling available to BP at this time and that any minor releases of shallow formation oil resulting from such riserless drilling would be to an area of the Gulf of Mexico unlikely to be adversely affected by the releases. BP's December 20, 2006, letter constitutes notice of an anticipated bypass as required by Part II.B.4.b(1) of the Permit and BP has agreed to submit notice of an unanticipated bypass within 24 hours of the occurrence of any release in accordance with Part II..B.4.b(2). Because BP's situation appears to meet the requirements for both anticipated and unanticipated bypasses under Part II.B.4.c. of the Permit, EPA does not believe it is necessary at this time to determine which of these bypass provisions best fits BP's circumstances.

We appreciate BP's efforts to approach this unusual situation proactively. If you have any questions, please contact Robert Houston, of my staff, at (214) 665-8565.

Sincerely,

Mike Michaud, Chief
Water Enforcement Branch
Compliance Assurance and
Enforcement Division

cc: Ms. Donna Ward, BP
Mr. Carlos Moreno, BP
Mr. Scott McDonald, EPA
Mr. Scott Wilson, EPA
Mr. Robert Houston, EPA

bcc: Haggard (6EN-WC)

CONCURRENCE

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HOUSTON	FAULTRY	RYLAND	MCDONALD	MICHAUD

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